

Appl. No. 09/745,106

Amdt. dated May 24, 2004

Reply to Final Office Action of February 24, 2004

**AFTER FINAL EXPEDITED PROCEDURE
REMARKS**

Claims 1 to 20 were pending in the application at the time of examination. Claims 1, 4, 5, 9, and 12 to 14 stand rejected as anticipated. Claims 2, 3, 6 to 8, 10, 11, and 15 to 17 are objected to. Claims 18 to 20 are allowed.

Claims 1, 4, 5, 9, and 12 to 14 stand rejected under 35 U.S.C. 102(a) as being anticipated by "The Next Steps in SCSI" by qLogic Corp., hereinafter the qLogic reference. The Examiner stated in part:

. . . the Data In phase transfers a packet (command(header) and data(payload) from the target to the initiator; . . . and receiving a signal by the SCSI initiator . . . to indicate whether a header packet information unit or another data packet information unit is to be received next in said . . . Data In phase (a packet contains nexus information (for example, the unit number of the device for which the packet is intended and the type of packet or packets to immediately follow; a packet or information unit consists of a header and a payload transmitted in pairs, except when the header indicates there is no data (payload) to follow.)

Applicant respectfully traverses the continued anticipation rejection of Claim 1. Applicant notes the Examiner's explanation of claim interpretation and does not disagree with the general principles cited. However, Applicant first notes that in an anticipation rejection the MPEP requires:

"The identical invention must be shown in as complete detail as is contained in the . . . claim." *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 1236, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989). The elements must be arranged as required by the claim, but this is not an *ipsissimis verbis* test, i.e., identity of terminology is not required. *In re Bond*, 910 F.2d 831, 15 USPQ2d 1566 (Fed. Cir. 1990).

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MPEP § 2131, 8th Ed., Rev. 1, p 2100-70, (Feb 2003).

Applicant's claims recite two types of structures: a header packet information unit and a data packet information unit. According to the prior art Packetized SCSI protocol,

Originally, each data packet, referred to herein as a data packet information unit, was immediately preceded by a header packet, referred to herein as a header packet information unit. The header packet information unit contained information about the immediately following data packet information unit, such as the length of the data packet information unit.

Specification, pg. 1, line 33 to page 2, line 5.

The qLogic reference stated:

. . . An IU consists of a header and a payload. These are always transmitted in pairs, except if the header indicates there is no payload to follow.

qLogic Reference, §4.1.1, pg. 10, paragraph 4.

Thus, the header of the qLogic reference is a header packet information unit as defined by Applicant, and the payload of the qLogic reference is a data packet information unit as defined by Applicant, assuming the qLogic reference is applicable. Moreover, the qLogic reference and Applicant describe the transmission and the function of the header unit in equivalent ways. Also, the qLogic reference unequivocally stated that the header and the payload are always transmitted in pairs.

Next, Applicant notes that the MPEP directs that there are limits on the scope the Examiner can read into the claims. In particular,

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Office personnel must always remember to use the perspective of one of ordinary skill in the art. Claims and disclosures are not to be evaluated in a vacuum.

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Office personnel are to give claims their broadest reasonable interpretation in light of the supporting disclosure. In re Morris, 127 F.3d 1048, 1054-55, 44 USPQ2d 1023, 1027-28 (Fed. Cir. 1997).

MPEP § 2106, 8th Ed., Rev. 1, p 2100-8, (Feb 2003).

Thus, the MPEP explicitly directed that the claims are to be considered in view of the level of ordinary skill in the art. This level, in the instant application, is defined by the Background section of the specification and the qLogic reference. The MPEP also stated that the breadth the examiner is allowed to read into a claim must be the "broadest reasonable interpretation in light of the supporting disclosure." (Emphasis added.)

Also, the MPEP directs that with respect to an anticipation rejection:

II. TO EXPLAIN THE MEANING OF A TERM USED IN THE PRIMARY REFERENCE

Extra References or Other Evidence Can Be Used to Show Meaning of a Term Used in the Primary Reference

Extrinsic evidence may be used to explain but not expand the meaning of terms and phrases used in the reference relied upon as anticipatory of the claimed subject matter.

MPEP § 2231.01, 8th Ed., Rev. 1, p 2100-70, 71 (Feb 2003).

Applicant's claims are limited to a specific SCSI protocol, "the Packetized SCSI protocol" and to a specific phase in that protocol, the "Data In" phase. The understanding of the prior art and the knowledge concerning these phases is not reading limitations into the claims from the specification,

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but rather is considering how one of skill in the art would interpret both the prior art and the claim limitations in view of the sections quoted above from the MPEP.

The Examiner has failed to maintain the distinctions for the different phases of the Packetized SCSI protocol. For example, in maintaining the rejection, the Examiner stated "packetized SCSI protocol supports streaming data." Applicant first notes that "streaming data" is interpreted as

Data streaming in the Packetized SCSI Protocol is representing multiple data packet information units using a single header packet information unit.

Specification, pg. 3, lines 28-30.

This definition is within the knowledge of one of skill and must be considered by the Examiner in view of the above directions from the MPEP. Thus, the Examiner is correct that Packetized SCSI protocol considers data streaming. However,

According to the Packetized SCSI Protocol, there is no data streaming for data transfers from the target to the initiator.

Specification, pg. 4, lines 15-17.

Data transfers from the target to the initiator are done in the "Data In" phase. Therefore, contrary to the Examiner's statement, according to the Packetized SCSI protocol, there is no streaming in the Data In phase of the Packetized SCSI protocol. This is not reading anything into the Claims, it simply demonstrates the knowledge of one of skill in the art. Since there is no streaming in the Data In phase, the Examiner's comment concerning streaming in the Packetized SCSI Protocol is limited to the Data Out phase and so is not related to Applicant's Claims and is an inappropriate consideration for

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an anticipation rejection. To the extent that this is relied on by the Examiner, it teaches away from Applicant's invention.

Next, in the prior art section of Applicant's disclosure, Applicant noted that during the Data In phase:

Similarly, a target could break data transfers from the target to the initiator up into multiple data packet information units with each data packet information unit preceded by a header packet information unit. In this case, the target kept the SCSI bus phase in Data In throughout the transfers.

Specification at page 3, lines 13 to 18.

As quoted above, the qLogic reference explicitly stated that a header and a payload are always transferred in a pair. Accordingly, there is no reason to be concerned with the type of next packet in a single connection. A payload always follows a header, and a header always follows a payload if the bus phase does not change because the two are always transmitted in a pair. The reason is that the protocol does not contemplate data streaming in the Data in Phase as noted above. This teaching is equivalent to that quoted from the Background of Applicant's specification above.

Moreover, the fact that Qlogic stated

Multiple commands may be packaged into several **header/payload pairs** transmitted in a single connection saving the multiple selection overhead of traditional SCSI.

The qLogic reference, 4.1.1, page 10, paragraph 5.

does not teach streaming as defined by the Packetized SCSI Protocol and in fact teaches a header/payload, header/payload ... sequence where each pair has a different command.

To the extent that this teaching even applies to the Data In phase, it fails to teach anything about a signal used to

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indicate to the initiator whether steaming in the data-in phase is being used, i.e., whether a data packet is to follow a previously transmitted data packet as recited in the Claims. According to the qLogic reference, a header always follows a payload and a payload always follows a header and so there is not even a need for such a signal.

To the extent that the Examiner applies an interpretation other than this to the qLogic reference, it ignores the level of skill in the art with respect to the Data In phase of the Packetized SCSI protocol, and the explicit statements quoted above from the Qlogic reference that are completely equivalent and consistent with the protocol. The fact that multiple pairs can be transmitted in a single connection fails to teach or even suggest anything about whether another data packet can follow a first data packet as recited in the Claims.

Also, while the header includes information about the payload in the pair, as noted by both Applicant and the Qlogic reference, this teaches nothing about the type of unit following the payload. Since the Packetized SCSI protocol does not recognize streaming in the Data In Phase, there is no need for receiving another data packet information unit after receiving a data packet information unit because the protocol does not have data streaming in the Data In phase, which is a transfer from the target to the initiator.

To the extent that the Examiner extracts some other reading from Qlogic, it contradicts both the explicit teachings as quoted above, and the explicit teaching concerning the Packetized SCSI Protocol. Such an interpretation is not sufficient to support an obviousness rejection, and so is not appropriate for an anticipation rejection, because the rejection itself demonstrates that the reference fails to teach exactly what is claimed.

In view of the above comments, Applicant respectfully submits that the qLogic reference fails to teach the identical

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invention in as complete detail as is contained in Claim 1. Therefore, Applicant respectfully requests reconsideration and allowance of Claim 1.

Claim 4 stands rejected as anticipated for the same reasons as quoted from the office action for Claim 1. Applicant respectfully traverses the anticipation rejection of Claim 4. Claim 4 depends from Claim 1 and so distinguishes over the qLogic reference for at least the same reasons as Claim 1. Applicant respectfully requests reconsideration and withdrawal of the anticipation rejection of Claim 4 in view of the qLogic reference.

Claim 5 stands rejected as anticipated for the same reasons as quoted from the office action for Claim 1. Applicant respectfully traverses the anticipation rejection of Claim 5. As noted above, the Examiner's comments about Packetized SCSI protocol ignore the level of skill in the art with respect to that protocol in that streaming is recognized only in the Data Out phase. Also, Claim 5 explicitly recites:

receiving a plurality of data packet information units, one immediately after another . . .

The rejection relies upon pairs of packets, i.e., a header/payload, header/payload . . . This explicitly teaches away from a header/payload, payload, as recited in Claim 5. Accordingly, the very rejection shows that the prior art used by the Examiner fails to teach exactly what is claimed and so therefore, Claim 5 distinguishes over the qLogic reference. Applicant requests reconsideration and withdrawal of the anticipation rejection of Claim 5 in view of the qLogic reference.

Claim 9 stands rejected as anticipated for the same reasons as quoted from the office action for Claim 1. Applicant respectfully traverses the anticipation rejection of Claim 9.

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Claim 9, as amended, contains language similar to that as discussed above for Claim 1. Therefore, the above comments concerning the anticipation rejection of Claim 1 are incorporated herein by reference. Applicant requests reconsideration and withdrawal of the anticipation rejection of Claim 9 in view of the qLogic reference.

Claims 12 and 13 stand rejected as anticipated for the same reasons as quoted from the office action for Claim 1. Applicant respectfully traverses the anticipation rejection of Claims 12 and 13. Claims 12 and 13 depend from Claim 9 and so distinguish over the qLogic reference for at least the same reasons as Claim 9. Applicant respectfully requests reconsideration and withdrawal of the anticipation rejection of Claims 12 and 13 in view of the qLogic reference.

Claim 14 stands rejected as anticipated for the same reasons as quoted from the office action for Claim 1. Applicant respectfully traverses the anticipation rejection of Claim 14.

Claim 14 also contains language similar to that as discussed above for Claim 1. Therefore, the above comments concerning the anticipation rejection of Claim 1 are incorporated herein by reference. Applicant requests reconsideration and withdrawal of the anticipation rejection of Claim 14 in view of the qLogic reference.

Applicant notes that Claims 2, 3, 6 to 8, 10, 11, and 15 to 17 stand objected to and thanks the Examiner for indicating that these Claims recite patentable subject matter. However, in view of the above remarks, Applicant has not amended these claims to incorporate all the limitations of the base claim and any intervening claims.

Claims 18 to 20 stand allowed.

Claims 1 to 20 remain in the application. For the foregoing reasons, Applicant(s) respectfully request allowance of all pending claims. If the Examiner has any questions

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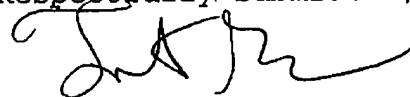
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relating to the above, the Examiner is respectfully requested
to telephone the undersigned Attorney for Applicant(s).

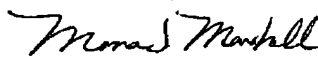
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Respectfully submitted,



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May 24, 2004

Date of Signature